



October 5, 2012

TO: Department of Ecology

FROM: WSAC

RE: Ecology Sept. 25 Draft of SEPA Categorical Exemption Revisions

WSAC appreciates the time and effort Ecology has devoted to updating the SEPA Categorical Exemptions. It also appreciates the collegiality and willingness of members of the SEPA Advisory Committee to listen to the issues raised by committee members and to search for creative solutions that will address committee members concerns.

The following comments focus on the proposed draft of revisions to WAC 197-11-800 released by Ecology on September 25, 2012. On October 2, 2012, Ecology supplemented that draft with an additional option to the flexible thresholds in WAC 197-11-800(1). That option came out of the SEPA Advisory Committee discussions on October 2.

**Minor New Construction (WAC 197-11-800(1))**

WSAC prefers Proposal C that was released on October 2, but does have some suggestions for changes.

As WSAC Committee members stated at the Advisory Committee meeting, one of our overarching concerns is that we not attempt to solve too many problems in this particular rulemaking. Although the Advisory Committee has discussed numerous issues in the first two meetings, this initial process should have a limited scope. Round 2 will present an opportunity to tackle more issues and deal with the categorical exemptions in a more comprehensive fashion.

WSAC also is sensitive to the differences among its members. Counties have a range of expertise and resources. Any changes to the exemption levels must be sensitive to these differences and should allow counties to establish exemption levels that make sense given the context of local circumstances. In this regard, we prefer an approach that retains the current minimum thresholds as a default. We believe that counties and cities should continue to have the flexibility that the current rules provide local governments to decide whether to increase the thresholds beyond the minimums.

In that light, we are concerned that Proposal A is overly complicated. It establishes new standards for adopting revised thresholds that have not had sufficient review. It also requires an entirely new notice requirement (publication in the SEPA register) for some types of SEPA exempt projects without any direction on when or how that notice would be provided or what benefit it would provide.

At the Advisory Committee meeting, WSAC representatives expressed a preference for Proposal B because of its simplicity. It also retained the existing standard for adopting optional thresholds which we believe have not been problematic.

Proposal C, which came out of the Advisory Committee discussions on October 2, is close in approach to Proposal B, but sets a higher maximum threshold for cities and unincorporated urban growth areas.

WSAC believes the threshold levels in Proposal C are generally on target. We believe that the proposal could be improved by making a distinction between those local governments that are fully planning under the GMA and those that are not. To accomplish this, we suggest that the higher maximum thresholds be available only in cities and urban unincorporated areas in counties fully planning under the GMA. In counties not fully planning under GMA, incorporated and unincorporated areas would be eligible to go to the lower tier.

Fully planning jurisdictions have a number of additional responsibilities under the GMA that support higher SEPA thresholds. Although non-planning jurisdictions are required to protect critical areas and natural resource lands, these are only a small subset of the issues fully planning jurisdictions are required to address through the comprehensive planning process. In addition, this approach will provide an additional benefit to those counties that are fully planning under GMA. Particularly for those that have opted into GMA planning, the benefits have been sometimes hard to demonstrate.

In addition, we do not believe there is a justification for treating cities and unincorporated UGAs differently in terms of the number of multifamily residential units. Counties and cities fully planning under GMA have the same obligations in terms of ensuring that their comprehensive plans and development regulations are consistent with GMA.

Finally, we suggest splitting the difference between the two options for the commercial exemption and would set the level at 30,000 square feet and 90 parking spaces.

The following summarizes our suggested changes:

Levels	Fully Planning GMA Counties		All other counties
	Incorporated and unincorporated UGA	Other unincorporated areas	Incorporated and unincorporated areas
Single family residential [# of units ]	30	20	20
Multifamily residential [# of unit]	60	25	25
Agricultural [sq ft]	40,000	40,000	40,000
Office, school, commercial + parking [sq ft + # of spots]	30,000 + 90	12,000 + 40	12,000 + 40
Landfill or excavation [cu yds]	1000	1000	1000

WSAC also believes the changes to the standards for adopting the optional thresholds in Proposal C clarify the existing standards and do not raise additional problems.

**WAC 197-11-800(23)(c) – Electrical Utilities**

WSAC supports the proposed changes to the categorical exemption for electric facilities. New transmission lines can generate considerable community interest and concern. By limiting the exemption to facilities within existing improved rights-of-way and developed utility corridors, the proposed change allows an opportunity for public review of the impacts of new facilities and provides an incentive for upgrading existing facilities.

**Environmental Checklist**

WSAC supports the proposed changes to WACs 197-11-315, -906 and -960. We believe these changes will simplify the environmental review process, particularly as it relates to non-project actions. We also appreciate the provision allowing for electronic submittals. In order to assist local governments in implementing these changes, WSAC strongly encourages Ecology to develop guidance on how to make the determinations of whether regulations, plans, and other local authority adequately cover questions on the checklist. WSAC would be willing to work with Ecology staff in developing such guidance.